

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

DARREN L. ROBINSON,

Petitioner,

v.

CIVIL ACTION NO. 5:09-cv-1324  
(Criminal No. 5:07-cr-00012)

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM OPINION AND ORDER**

Petitioner Darren L. Robinson, *pro se*, (“Petitioner”) brings this action for a writ of habeas corpus pursuant to 28 U.S.C. § 2255 [Docket 80]. On December 9, 2009, this Court referred Petitioner’s motion to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings of fact and a recommendation (“PF&R”) pursuant to 28 U.S.C. § 636(b)(1)(b) [Docket 83].

In his request for post-conviction relief, Petitioner asserts claims of ineffective assistance of counsel both at the trial court and appellate level. On July 20, 2012, Magistrate Judge VanDervort issued a PF&R recommending the dismissal of Petitioner’s motion because it fails to state a meritorious claim of ineffective assistance of counsel [Docket 88].

The Court is not required to review, *de novo* or by any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner’s right

to appeal this Court's Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due on August 6, 2012, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.

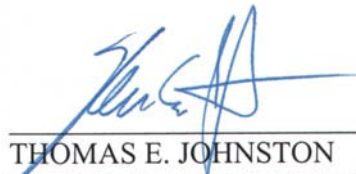
Accordingly, the Court hereby **ADOPTS** the PF&R, **DENIES** Petitioner's motion [Docket 80], and **DIRECTS** the Clerk to remove this action from the Court's active docket.

**IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, this Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). Pursuant to Rule 11(a), Petitioner may not appeal the District Court's denial of a certificate of appealability, but he may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.

The Clerk is further directed to provide a copy of this Order to all counsel of record, the petitioner, *pro se*, and Magistrate Judge VanDervort.

**IT IS SO ORDERED.**

ENTER: November 9, 2012

A handwritten signature in blue ink, appearing to read "Th. Johnston", is written over a horizontal line.

THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE